

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CARMETIA MCCOREY	:	CIVIL ACTION
	:	
v.	:	
	:	
ELMIRA JEFFERIES NURSING HOME	:	NO. 00-3907

MEMORANDUM ORDER

Plaintiff commenced this action by filing a Praecipe to Issue a Writ of Summons in the Philadelphia Court of Common Pleas. The sum and substance of plaintiff's praecipe directs the Prothonotary of the Philadelphia Court of Common Pleas to issue a Writ of Summons to the defendant. The praecipe contains no alleged facts, no identification of any claim and no specification of any damages. Defendant removed the action to this court pursuant to 28 U.S.C. § 1441 based on a "belief" that plaintiff intends to assert federal claims under 42 U.S.C. § 1981 and 1983 and Title VII.

Federal courts have an ever-present obligation to satisfy themselves of their subject matter jurisdiction and to decide the issue sua sponte. See Meritcare Inc. v. St. Paul Mercury Ins. Co., 166 F.3d 214, 217 (3d Cir. 1999). The federal removal statute is strictly construed against removal. See id. The grounds for federal jurisdiction must appear on the face of the initial pleading, whether in the form of a writ of summons, praecipe, or complaint. See Foster v. Mutual Fire, Marine & Inland Ins. Co., 986 F.2d 48, 54 (3d Cir. 1993) (time for removal

triggered upon receipt of writ of summons, praecipe or complaint "which in themselves provide adequate notice of federal jurisdiction"); Smith v. Nike Retail Servs. Inc., 1998 WL 195913, *2 (E.D. Pa. Apr. 9, 1998) (defendant cannot remove "until it is clear from the pleadings that the federal court has original jurisdiction over that action"); Textile Chem. Co. v. Aetna Casualty & Surety Co., 1997 WL 537408, at *1 (E.D. Pa. Aug. 5, 1997).

Defendant's belief or impression that plaintiff intends to assert federal claims does not establish removal jurisdiction. See Foster, 986 F.2d at 54 (information outside ambit of pleadings themselves cannot trigger removal). See also Joyce v. RJR Nabisco Holdings Corp., 126 F.3d 166, 171 (3d Cir. 1997) (removal not appropriate unless federal question appears on face of pleading).¹

There is also no apparent basis for diversity jurisdiction. There has been no specification of damages and no allegations from which the amount in controversy can be ascertained. See Smith, 1998 WL 195913, *2 (case remanded when amount in controversy could not be ascertained from Summons or

¹A plaintiff, of course, is master of his complaint. The same facts which may give rise to federal constitutional or employment discrimination claims will frequently also support comparable state claims.

Praecipe); Aetna, 1997 WL 537408, *1 (same).² It also appears from the addresses provided by plaintiff on the praecipe that the parties are both situated in and thus quite possibly citizens of Pennsylvania.

ACCORDINGLY, this day of February, 2001,
pursuant to 28 U.S.C. § 1447(c), **IT IS HEREBY ORDERED** that this
case is **REMANDED** to the Court of Common Pleas of Philadelphia.

BY THE COURT:

JAY C. WALDMAN, J.

²The action was initiated in the Common Pleas Court as an "arbitration case."